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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 1206 of 2006
Date of decision: 5.11.2007

Kulbir Singh **...Appellant**

Versus

Sucha Singh **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sarju Puri, Advocate for the appellant.

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RAJESH BINDAL, J.

The plaintiff is in second appeal before this Court against the concurrent findings of fact by both the Courts below whereby suit filed by him for permanent injunction restraining the respondent/defendant from interfering in any manner in the use of private street, was dismissed.

On the pleadings of the parties, one of the issue framed was as to whether the suit is barred by principle of resjudicata, the onus of which was on the respondent/defendant. To discharge the onus, respondent produced on record the judgment and decree between the parties in earlier suit bearing No.150 of 10.8.1990 decided on October 06, 1994 titled as Pritam Singh Vs. Sucha Singh. The claim made in the earlier suit, which was instituted by the father of the present appellant was the same as is sought to be claimed in the present case. In the earlier litigation, the plaintiff therein, namely, Pritam Singh having died during the pendency thereof, the present appellant was one of the legal representatives, who were brought on record. In the earlier suit, it was held that the street in dispute was not a private property of the plaintiff but was the public street. Once in an earlier litigation between the parties, the issue sought to be raised in the present proceedings had already been decided, in my opinion, appellant/plaintiff had rightly been non suited in the present case on the principle of resjudicata.

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Accordingly, I do not find any substantial question of law arises in the present appeal and the same is dismissed.

November 05, 2007 **(Rajesh Bindal)**
Pka **Judge**